

## **12 FAM 030**

# **ACCOUNTABILITY REVIEW BOARD (ARB)**

*(CT:DS-225; 12-08-2014)*  
*(Office of Origin: M/PRI)*

## **12 FAM 031 GENERAL PROVISIONS**

### **12 FAM 031.1 Objective**

*(CT:DS-158; 09-17-2010)*

The ARB process is a mechanism to foster more effective security of U.S. missions and personnel abroad by ensuring a thorough and independent review of security-related incidents. Through its investigations and recommendations, the Board seeks to determine accountability and promote and encourage improved security programs and practices. In addition, the ARB mechanism enhances the integrity of the visa issuing process by determining accountability in certain instances in which terrorist acts in the United States are committed by aliens.

### **12 FAM 031.2 Responsibilities**

*(CT:DS-158; 09-17-2010)*

A Board will be convened for the express purpose of investigating only that incident or those incidents specified by the Secretary. A Board will examine the facts and circumstances surrounding the incident or incidents, and makes written findings in accordance with 12 FAM 035.

### **12 FAM 031.3 ARB Definitions**

*(CT:DS-225; 12-08-2014)*

**Act:** The Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.

**ARB:** Accountability Review Board.

**Board:** Accountability Review Board established under either Title III of the Act (22 U.S.C. 4831) or Section 140(c).

**COM:** Chief of a U.S. mission.

**Committee:** The ARB Permanent Coordinating Committee (ARB/PCC).

**Consular officer:** Any individual authorized to issue visas pursuant to Section

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101(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(9), and the Department's regulations under 22 CFR 40.1(d).

**D:** *The Deputy Secretary of State.*

**Days:** Calendar days.

**D-MR:** *The Deputy Secretary of State for Management and Resources.*

**DNI:** The Director of National Intelligence.

**Department:** The Department of State.

**Incident:** A security-related incident or a visa incident.

**Individual:** As defined in Section 303(a)(1)(B) of the Act (22 U.S.C. 4833(a)(1)(B)).

**Party:** Any person invited, subpoenaed or otherwise required to participate in any investigation, hearing, or other official activity of a Board.

**Records of a Board:** : Documents and information, in any form, that are used or produced by a Board and which a Board believes should be included in its official records.

**Representative:** A lawyer appearing at the witness' expense, or a lawyer who represents solely the interests of the witness testifying before an ARB. U.S. government lawyers who are obliged to represent the interests of their employer agencies are not "exclusive representatives" for purposes of these regulations.

**Secretary:** The Secretary of State.

**Section 140(c):** Section 140(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103-236, as amended by Section 1(d) of Public Law 103-415 (October 25, 1994) (8 U.S.C. 1182 note).

**Security-related incident:** A case of serious injury, loss of life, or significant destruction of property at or related to a U.S. government mission abroad, or a case of a serious breach of security involving intelligence activities or a foreign government directed at a U.S. mission abroad (other than a facility or installation subject to the control of a U.S. area *combatant* commander).

**Visa incident:** A terrorist act causing serious injury, loss of life, or significant destruction of property in the United States when there is probable cause to believe that an alien participated in the act, and when the alien was issued a visa contrary to applicable visa lookout procedures established by the Department.

## **12 FAM 032 ORGANIZATION**

### **12 FAM 032.1 ARB Permanent Coordinating Committee**

## (ARB/PCC)

(CT:DS-217; 10-09-2014)

- a. **Purpose:** The ARB/PCC will, as quickly as possible after an incident occurs, review the available facts and recommend to the Secretary to convene or not convene a Board. (Due to the 1999 revision of the law requiring the Secretary to convene a Board not later than 60 days after the occurrence of an incident, except that such period may be extended for one additional 60-day period, the ARB/PCC will meet within 30 days of the incident if enough information is available.) In addition, the ARB/PCC will meet yearly to review the ARB process, existing policies and procedures, all past ARB recommendations, and ensure that any necessary changes are effected.
- b. **Membership:** The ARB/PCC will be composed of the following members:
  - (1) The Director of the Office of Management Policy, Rightsizing and Innovation (M/PRI), who will chair the ARB/PCC;
  - (2) The Assistant Secretary for Diplomatic Security or the Principal Deputy;
  - (3) The Senior Deputy Assistant Secretary for Intelligence and Research;
  - (4) The Coordinator for Counterterrorism;
  - (5) The senior deputy assistant secretary (or secretaries, as appropriate) of the relevant regional bureau(s);
  - (6) One representative designated by and representing the DCI; and
  - (7) The Deputy Assistant Secretary for Visa Services.
- c. **Other participants:** As a result of the State-Justice Memorandum of Understanding (MOU) dated September 20, 2001, the Department of Justice has been invited to attend PCC meetings. Also, as determined by the Chairperson, representatives of other offices and agencies may be invited to work with the ARB/PCC.
- d. **Security clearances:** Members of the ARB/PCC must have the appropriate and necessary security clearances from the Department of State and, as necessary, from other departments and agencies before being granted access to classified information.
- e. **Incident vetting process:** To identify incidents that warrant convening the ARB/PCC, M/PRI will shepherd the following process:
  - (1) Once M/PRI becomes aware of an incident overseas, the M/PRI Director, as Chair of the ARB/PCC, will consult with Diplomatic Security, the Office of the Legal Adviser, and other offices as appropriate, to evaluate whether the ARB statute criteria apply;
  - (2) If deemed applicable, M/PRI will convene an ARB/PCC, allowing enough time for preliminary incident reports to be developed for consideration by the ARB/PCC;

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- (3) If the applicability of the ARB statute criteria is questionable, an ARB/PCC will be convened;
- (4) If deemed not applicable, M/PRI will notify ARB/PCC members in writing, providing a summary of the incident and an explanation as to why the criteria do not apply. Members who disagree with this decision will have three business days upon receipt of notice to request that an ARB/PCC be convened. If such a request is made, M/PRI will convene a meeting of the ARB/PCC; otherwise, no ARB/PCC will be called. Members and their staffs will also be notified via telephone;
- (5) M/PRI will log all events involving loss of life, injury to personnel, or property damage, noting whether a PCC was convened and the reasons for doing so or not; and
- (6) On a quarterly basis, the ARB/PCC will notify the Secretary of all incidents that do not warrant convening the ARB/PCC. Examples of such an incident are property damage resulting from a security-related incident that does not have a high-dollar value or a very minor injury resulting from a security-related incident.

## **12 FAM 032.2 The Board**

*(CT:DS-162; 03-21-2011)*

- a. **Membership:** See Section 302(a) of the Act, 22 U.S.C. 4832.
- b. **Background of members:** Members must possess expertise that will contribute to the work of the Board (e.g., knowledge, experience or training in areas such as foreign affairs, law, security, embassy construction, intelligence, and other areas appropriate to the Board's work). In the case of a Board convened pursuant to a visa incident, at least one Board member must have had extensive experience as a consular officer and consular manager. Only in exceptional circumstances should Board members be current employees of the U.S. Government.
- c. **Term of appointment:** A member's term will begin upon the convening of the Board by the Secretary and will coincide with the duration of the Board's mandate.
- d. **Security clearances:** Members and staff must have the appropriate and necessary security clearances from the Department of State and, as necessary, from other departments and agencies, before being granted access to classified information.
- e. **Inability to serve:** Should a member be unable to continue serving after appointment, the Secretary may relieve that person from duty on the Board and appoint a replacement member or, in the case of the member appointed by the DNI, the DNI may relieve that member and appoint a replacement.

## 12 FAM 032.3 ARB Staff

(CT:DS-225; 12-08-2014)

- a. **ARB Staff Officer:** The Director of the Office of Management Policy, Rightsizing and Innovation (M/PRI) shall appoint a member of the M/PRI staff to be the ARB Staff Officer. The ARB Staff Officer will:
- (1) Oversee the ARB process and ensure that all policies and procedures relating to the ARB are adequate and up-to-date;
  - (2) Serve as the institutional memory and primary point of contact within the Department for ARB matters;
  - (3) Maintain all permanent files, rules, procedures, rosters, libraries, etc., for the ARB process, to include documenting all incidents involving loss of life, injury to personnel, or property damage regardless of whether the incidents meet the criteria under ARB statute, noting whether a PCC was convened and the reasons for doing so or not;
  - (4) Coordinate the implementation process for ARB recommendations;
  - (5) Manage the annual ARB/PCC review of all past ARB recommendations; and
  - (6) Carry out ARB related staff work for the ARB/PCC.
- b. **ARB Executive Secretary:** When a Board is convened, M/PRI will name an Executive Secretary to coordinate and facilitate the work of that Board. The Executive Secretary will normally be a Senior Foreign Service officer or a retired Senior Foreign Service officer who is recommended by DGHR/CDA. The tenure of the Executive Secretary will coincide with the tenure of the Board.
- c. **Experts, consultants and support staff:** As determined by the Board, the Department will provide the necessary experts, consultants and support staff to enable the Board to carry out its duties effectively and efficiently. S/ES-EX will provide a full-time dedicated administrative support coordinator (detailee or WAE) to assist the Executive Secretary of the ARB, as formalized in Administrative Notice No. 05-02, dated February 22, 2005.

## 12 FAM 032.4 Assignment, Hiring, and Contracting Mechanisms

(CT:DS-158; 09-17-2010)

The full-time Administrative Support Coordinator appointed by S/ES-EX will work with the appropriate offices in the Department such as S/ES-EX, DGHR, A/OPR, etc., and is responsible for overseeing and coordinating the mechanisms to assign, hire and/or contract for the personnel and services required by a Board. The Coordinator will also ensure that all such personnel receive the necessary security clearances prior to assuming their duties.

## 12 FAM 032.5 ARB Facilities, Services, and Supplies

*(CT:DS-158; 09-17-2010)*

- a. As set forth in S/ES-EX Administrative Notice No. 05-02 dated February 22, 2005, S/ES-EX is responsible for providing a Board with necessary and appropriate office space, equipment, service, passes and permits, supplies and such other logistical support as a Board may require.
- b. S/ES-EX budgets and provides funding for ARB expenses.
- c. The ARB Staff Officer, as appropriate, coordinates the needs of a Board with the Administrative Support Coordinator in S/ES-EX.

## 12 FAM 033 CONVENING, SELECTING, AND TERMINATING A BOARD

### 12 FAM 033.1 Convening a Board

*(CT:DS-225; 12-08-2014)*

- a. **Written decision:** The Secretary, in writing, makes the decision to convene a Board and sets forth the names of the Board's Chairperson and members, the purposes and jurisdiction of the Board (as established in Section 304 of the Act or, as appropriate, Section 140(c)), and its duration. The decision will be published in the Federal Register, or other similar document, if deemed appropriate by the Secretary.
- b. **Deadlines for convening a Board:** The Secretary must decide whether or not to convene a Board not later than 60 days after the occurrence of an incident, except that such 60-day period may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary for the convening of the Board.
- c. **Delays:** The Secretary may delay the convening of a Board, if, after consultation with the chair of the Select Committee on Intelligence of the Senate and the chair of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary must promptly advise the chairs of such committees of each determination to delay the establishment of a Board.
- d. **Security-related incidents:**
  - (1) A Board convenes, with respect to a security-related incident, only if the following two determinations are made; provided, however, that if these determinations are made, a Board need not be convened if the Secretary also determines that the case clearly involves only causes unrelated to security:



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- (a) That the incident involved serious injury, loss of life, or significant destruction of property or a serious breach of security involving intelligence activities of a foreign government; and
    - (b) That the incident occurred at or related to a U.S. government mission abroad (other than a facility or installation subject to the control of a U.S. area combatant commander);
  - (2) The Secretary of State is not required to convene a Board in the case of an incident that involves any facility, installation, or personnel of the Department of Defense (DOD) with respect to which the Secretary has delegated operational control of security functions abroad to the Secretary of Defense pursuant to section 106 of the Act. In any such case, the Secretary of Defense will conduct an appropriate inquiry and report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress; and
  - (3) Pursuant to Public Law 109-140, Public Law 111-117, and Public Law 113-76, the Secretary of State is not required to convene a Board in the case of an incident involving serious injury, loss of life, or significant destruction of property at or related to a U.S. Government mission in Afghanistan and which occurs in the period beginning on October 1, 2005 and ending on September 30, 2014. In the case of such an incident, the Secretary of State will promptly notify the House Committee on International Relations and the Senate Committee on Foreign Relations, conduct an inquiry of the incident, and submit to each such Committee a report on the findings and recommendations related to the inquiry and the actions taken with respect to such recommendations. Therefore, while the Secretary may decide to convene a Board in the case of such an incident, he or she also has the option of conducting a different type of inquiry.
- e. **Visa incidents:** A Board will be convened with respect to a visa incident only if the following three determinations are made:
- (1) That the incident involved a terrorist act causing serious injury, loss of life, or significant destruction of property in the United States;
  - (2) That there is probable cause to believe that a specifically identified alien was a participant in the terrorist act; and
  - (3) That the alien was issued a visa on or after May 1, 1996; at the time of visa issuance, the alien's name was included in the Department's Consular Lookout and Support System (CLASS) and that the visa was issued as a result of a failure by the consular officer to adhere to the procedures required to be followed by the inclusion of the name in such visa lookout system.
- f. **Notification to Congress:** Whenever the Secretary convenes a Board, the Secretary will promptly inform the chairman of the Committee on Foreign

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Relations of the Senate and the Speaker of the House of Representatives:

- (1) That a Board has been convened;
- (2) The membership of the Board; and
- (3) Other appropriate information about the Board.

## **12 FAM 033.2 Selection, Appointment, and Compensation of Members**

*(CT:DS-217; 10-09-2014)*

- a. **Selection:** The ARB Staff Officer maintains a list of potential members. During the ARB/PCC's yearly meeting the list will be reviewed and updated. If the ARB/PCC recommends that the Secretary convene a Board, it will forward a list of potential Board members to the Secretary for approval. The ARB/PCC coordinates its activities in this area with the DNI's representative.
- b. **Appointment:** Members selected by the Secretary and the DNI for appointment to a Board will, as necessary, be processed for employment purposes by S/ES-EX.
- c. **Compensation:** Members who are not Federal officers or employees, unless they waive compensation, will be paid (per the statute) at a rate not to exceed the maximum rate of basic pay payable for level GS 15, Step 10 of the General Schedule (5 U.S.C. 5332) for each day (including travel time) during which they are engaged in the actual performance of Board duties. Members who are Federal officers or employees shall receive no additional pay for service on a Board.

## **12 FAM 033.3 Timeframe of a Board**

*(CT:DS-158; 09-17-2010)*

- a. **Initiating activities:** A Board must begin its work within a reasonable period of time following the Secretary's decision to convene the Board.
- b. **Ample time:** A Board must be given ample time to conduct its investigations and write its report.
- c. **Extension of time:** Should a Board decide that the time allotted for its work is insufficient, it must apply, in writing, to the Secretary for an extension of time.
- d. **Termination:** A Board's authority terminates on the date set forth in the Secretary's order convening the Board, or on a date as is subsequently set by the Secretary.

## **12 FAM 034 BOARD POWERS AND PROCEDURES**



## 12 FAM 034.1 Powers of a Board and Chairperson

*(CT:DS-217; 10-09-2014)*

- a. **Board powers:** In accordance with Section 303 of the Act, the Board has the authority:
- (1) With respect to any individual to:
    - (a) Administer oaths and affirmations;
    - (b) Require that depositions be given and interrogatories be answered; and
    - (c) Require the attendance and presentation of testimony and evidence by such individual;
  - (2) With respect to persons not included under the Act's definition of individual to:
    - (a) Administer oaths and affirmations; and
    - (b) Require that depositions be given and interrogatories be answered;
  - (3) Determine Board procedures for hearings, investigations and other such activities of the Board;
  - (4) Issue subpoenas, where necessary and in accordance with Section 303(a)(3) of the Act; and
  - (5) Make findings and recommendations as provided in Section 304 of the Act, or, as appropriate, Section 140(c).
- b. **Powers of the Chairperson:** The Board Chairperson has the authority to:
- (1) Regulate the course and conduct of Board activities, including but not limited to holding hearings and controlling their course and conduct; and
  - (2) Designate, in writing, another member to act in his or her stead in case of temporary absence.

## 12 FAM 034.2 Board Procedures

### 12 FAM 034.2-1 Investigations

*(CT:DS-158; 09-17-2014)*

- a. **Venue:** The Board may conduct its investigations, including hearings, within the United States or abroad. When appropriate and cost effective, the Board will make every reasonable effort to take sworn testimony within the continental United States (CONUS).
- b. **Use of investigative personnel:** The Board may use, subject to the concurrence of the sending office and/or agency, personnel from such entities as the Bureau of Diplomatic Security (DS) or the Office of the Inspector General

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(OIG) to assist its investigative activities.

- c. **Noninterference with other authorities:** The Department will notify the Department of Justice (DOJ), Office of Counterterrorism of any decision by the Secretary to convene an Accountability Review Board (ARB) shortly after such a decision is made. The Board will carry out its activities in a manner that does not interfere with or compromise the work of duly authorized authorities, such as law enforcement, security, intelligence or diplomatic activities, either U.S. or foreign.
- d. **Clearance requirement abroad:** Prior to undertaking any Board activities outside the United States, the Board must obtain the concurrence of the chief of mission (COM) or the Deputy Secretary of State for Management and Resources and, if deemed appropriate by the COM or the Deputy Secretary, of the host government to such activities.
- e. **Conduct of activities abroad:** Any Board activities undertaken abroad must be conducted in a manner consistent with local law and custom, as determined by the COM or the Department. Activities abroad will be closed to the public unless the Board desires they be open and the COM or the Department concurs.

## **12 FAM 034.2-2 Evidence**

*(CT:DS-39; 08-15-1994)*

The Board may accept any evidence determined by the Chairperson to be relevant and material to the investigation. The Federal Rules of Evidence are not applicable to the Board.

## **12 FAM 034.2-3 Witness Rights**

*(CT:DS-217; 10-09-2014)*

- a. **Representation:**
  - (1) Any person appearing before or meeting with the Board or a member(s) of the Board or responding to written questions issued by the Board, whether acting voluntarily or by subpoena and whether sworn or unsworn, is entitled to be accompanied and advised by an exclusive representative at the person's expense consistent with 12 FAM 031.3. Foreign and Civil Service employee witnesses may be represented by the appropriate representation (e.g., the American Foreign Service Association—AFSA). Except to the extent that their presence is required by the DNI for the purpose of protecting sources and methods, the Board may bar from ARB proceedings government lawyers who are not the exclusive representatives of persons appearing before or meeting with the Board;
  - (2) An employee assigned domestically who is notified to appear as a witness by the Board will, if the employee so requests, be granted 72 hours in order to obtain representation. Should the employee desire additional

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time, a written request for such time may be made to the Chairperson; and

- (3) An employee assigned abroad who is notified to appear as a witness by the Board, and who wishes to be represented by someone other than an exclusive representative, may submit a written request to the Chairperson, requesting a reasonable amount of time to obtain such representation. The amount of time granted by the Chairperson will depend on such factors as the scope of the ARB process, the limits of the employee's expected testimony, and the feasibility of obtaining counsel at that location.

**b. Advising:**

- (1) Witnesses responding to or appearing before the Board or a member(s) of the Board must be given reasonable written notice of the proceeding's time, place and nature. They must also be advised, in writing, of the authority under which the proceeding is being conducted and the purpose(s) to which the information they give may be used. Finally, the witnesses are to be advised of their legal right to refuse to answer self-incriminating questions and of their right to have counsel present; and
- (2) The Department must notify post employees concerning their rights in connection with ARB investigations prior to the arrival of the ARB investigative team at post.

**c. Travel expenses:**

- (1) Subpoenaed witnesses will be paid the same fee and mileage allowances paid to subpoenaed witnesses in the courts of the United States;
- (2) The Department will pay the travel and per diem expenses, at U.S. government rates, for one exclusive representative to travel to the location abroad, whenever an ARB conducts activities abroad involving employees; and
- (3) Travel expenses of a representative of a witness other than the witness' exclusive representative will be the responsibility of that witness.

- d. Presentations:** Subject to 12 FAM 034.2-2, a witness has the opportunity to bring to the Board's attention, areas of inquiry, material, and the names of additional potential witnesses.

## **12 FAM 034.2-4 Confidentiality and Safeguarding of Classified Information**

*(CT:DS-217; 10-09-2014)*

- a. Adopting procedures:** (See 22 U.S.C. 4833.) Such procedures must ensure the protection of classified information and administrative confidentiality of testimony affecting personal privacy or ongoing criminal investigations. In addition, the Board will take care to protect Sensitive But Unclassified (SBU) information, such as security policies and procedures.

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- b. **DNI role:** DNI will establish the level of protection and standards required for intelligence information, including appointing a representative, as necessary, to attend Board activities where classified intelligence information might be used.

## **12 FAM 034.2-5 Classification Authority**

*(CT:DS-158; 09-17-2010)*

The Board does not have original classification authority. The Director of M/PRI will exercise classification authority for materials originating from Board activities.

## **12 FAM 034.2-6 Records**

*(CT:DS-217; 10-09-2014)*

Records pertaining to Board activities and proceedings will be kept by the ARB Staff Officer and the DNI in accordance with 22 U.S.C. 4833(c).

# **12 FAM 035 FINDINGS AND RECOMMENDATIONS**

## **12 FAM 035.1 Findings**

*(CT:DS-158; 09-17-2010)*

- a. **Examination:** A Board will examine the facts and circumstances surrounding the security-related incident or a visa incident.
- b. **Written submission:** In its report to the Secretary, a Board makes written findings, which may be classified, as necessary.

## **12 FAM 035.2 Recommendations**

### **12 FAM 035.2-1 Program Recommendations**

*(CT:DS-217; 10-09-2014)*

- a. See 22 U.S.C 4834(b).
- b. **Confidentiality:** In its program recommendations, the Board takes care to safeguard classified information and afford such information the required measure of protection. In addition, any sections of such recommendations affecting personal privacy or ongoing law enforcement investigations will receive appropriate confidentiality and other applicable protections necessary under law.

## 12 FAM 035.2-2 Personnel Recommendations

(CT:DS-217; 10-09-2014)

- a. **Requirement:** See 22 U.S.C 4834(c).
- b. **Standard for determination:** 22 U.S.C 4834(c).
- c. **Confidentiality:** In its personnel recommendations, the Board will take care to safeguard classified information and afford such information the required measure of protection. In addition, any sections of such recommendations affecting personal privacy or ongoing law enforcement investigations will receive appropriate confidentiality and other applicable protections necessary under law.
- d. **Signatures and dissent:** Each personnel recommendation must be signed by all members, thus signifying their support for and agreement with the recommendation. In cases where a member dissents from part or all of such a recommendation, that member may submit written dissenting views. Any such dissenting views must be attached to the recommendation and signed by the dissenting member.
- e. **Notification of the head of agency or instrumentality:** The Board must send a separate notification on each individual who is the subject of a personnel recommendation to the head of agency or instrumentality concerned. Such notification must contain, at a minimum:
  - (1) The Board's findings of reasonable cause, together with all relevant evidence supporting such findings;
  - (2) The Board's recommendations concerning investigatory or disciplinary action; and
  - (3) Any dissenting views.
- f. **Notification of the individual:** The Board must send notification to each individual who is the subject of a personnel recommendation. Such notification must contain, at a minimum, a covering statement informing the individual that:
  - (1) The Board is acting pursuant to Section 304(c) of the Act or as the case may be, Section 140(c);
  - (2) The report does not represent the initiation of disciplinary or other adverse action against the individual; and
  - (3) The decision to initiate disciplinary or other adverse action against the individual rests with the individual's employing agency, or other competent authority.

## 12 FAM 036 REPORTS

## 12 FAM 036.1 Types of Reports

(CT:DS-225; 12-08-2014)

Section 304 of the Act envisages three types of reports that generally will also be appropriate under Section 140(c):

- (1) A Board's report to the Secretary on its findings and any program recommendations;
- (2) The Secretary's report to the Congress on any program recommendations and the actions taken on them; and
- (3) Report(s) to the Congress by the head(s) of the concerned agency(ies) or instrumentality(ies) on any personnel recommendations.

## 12 FAM 036.2 The Board's Report to the Secretary

(CT:DS-225 12-08-2014)

- a. **Content:** The Board's Report to the Secretary includes the Board's findings, any program recommendations and, regardless of agency or instrumentality concerned, any personnel recommendations. The report must be based upon a consideration of the entire record of information obtained by the Board.
- b. **Confidentiality:** In its Report to the Secretary, the Board takes care to safeguard classified information and afford it the measure of protection required. In addition, sections of the Report affecting personal privacy or ongoing law enforcement investigations will receive appropriate confidentiality and other applicable protections required under law.
- c. **Signatures and dissent:** All members must sign the Board's report and thereby signify their support for and agreement with the report. In cases where a member dissents from any of the findings or recommendations, that member may submit written dissenting views. Any such dissenting views must be attached to the Board's report and signed by the dissenting *members*.

## 12 FAM 036.3 Managing ARB Recommendations

(CT:DS-225; 12-08-2014)

- a. **Acceptance of recommendations:** The Secretary of State, or his/her designee, will determine what actions should be taken with respect to the recommendations. *The Deputy Secretary of State for Management and Resources will oversee the Department's progress on ARB implementation.*
- b. **Implementation:** *The Under Secretary for Management, in coordination with the Under Secretary for Political Affairs, is responsible for implementation of ARB recommendations. On behalf of the Secretary and other Department principals, M/PRI will coordinate and track recommendations and manage the overall implementation process. M/PRI will report progress on ARB*



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*implementation to the Deputy Secretary for Management and Resources.*

- c. **Annual Implementation Status Review:** The ARB/PCC will review all past recommendations on an annual basis and provide a report to the Under Secretaries for Political Affairs and Management, providing the implementation status of all past recommendations, and noting any trends. *The report will also be provided to the Deputy Secretary and Deputy Secretary of State for Management and Resources.*
- d. **Closing recommendations:** The Under Secretary for Management will *determine the status of* a recommendation.

## **12 FAM 036.4 Reports to Congress**

*(CT:DS-225; 12-08-2014)*

- a. **Program recommendations:** Per the ARB statute, the Secretary will, not later than 90 days after the receipt of a Board's program recommendations, submit a report to the Congress on each such recommendation and the action taken or intended to be taken with respect to that recommendation. *The report shall be sent to the leadership of both houses of Congress; the Chairperson and Ranking Member of SACFO and HACFO; and the Chairperson and Ranking Member of SFRC and HFAC.*
- b. **Personnel recommendations:** The head of the Federal agency or instrumentality receiving a report from a Board that contains a finding of reasonable cause under Section 304(c) of the Act or Section 140(c) will, not later than 30 days after receiving that finding, transmit to the Congress a report specifying:
  - (1) The nature of the case and a summary of the evidence transmitted by the Board; and
  - (2) The decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary action or other action with respect to that individual.
- c. **Distribution of copies of reports on personnel recommendations:** A copy of each personnel recommendation report to the Congress will be sent to the Secretary of State and, if applicable, the head of the agency of said personnel. In addition, a copy of such a report will be sent to the individual concerned, provided that doing so does not violate the employing agency's own procedures or regulations.

## **12 FAM 037 THROUGH 039 UNASSIGNED**